

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL MEMORANDUM

SB 776 – HB 1842

May 5, 2009

SUMMARY OF AMENDMENT (007893): Deletes all language after the enacting clause and authorizes a cemetery operator, who discovers that a burial has taken place in the wrong plot, to disinter the remains and reinter them into the correct plot at the expense of the cemetery after attempting to notify the decedent's next of kin and the plot owner. The cemetery must notify the Commissioners of Commerce and Insurance and Health of the error and corrective action. Prohibits the Department of Health from requiring permits for the disinterment of a wrongfully buried decedent when done pursuant to the provisions of the bill. Changes the valuation date from July 1, 2005 to July 1, 2009 that is used to calculate the limitation of the net earnings of a cemetery that may be withdrawn for improvement care. Requires the total of all expenditures of income from the improvement care trust fund to be included in the cemetery's financial report submitted to the Commissioner of Commerce and Insurance. Redefines "improvement care" by deleting administration of the cemetery from the definition.

CORRECTED FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures – Not Significant

Other Fiscal Impact – Should the decrease in the Improvement Care Trust Fund result in a decline in the maintenance, care, and upkeep of cemeteries, the Burial Services Advisory Program may incur an increase in complaints. Depending on the extent of the investigation, fees may have to be increased to cover additional expenditures. As of June 30, 2008, the Board had a cumulative negative balance of \$1,607,900.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the corrected original fiscal note.

Assumptions applied to amendment:

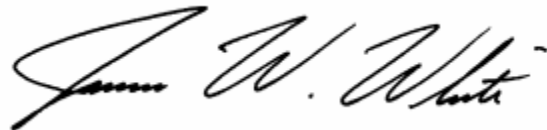
- Neither the Department of Commerce and Insurance nor the Department of Health will incur a significant increase in expenditures to receive notification of a disinterment error.

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- According to the Department of Commerce and Insurance (DCI), changing the valuation date to December 31, 2008 will lower the balance that cemeteries are required to maintain in the improvement care trust fund after any withdrawal. The fair market value of the trust used for the calculation will be lowered and contributions made between July 1, 2005 and December 31, 2008 will not be included in the calculation.
- Should the decrease in the Improvement Care Trust Fund result in a decline in the maintenance, care, and upkeep of cemeteries, the Burial Services Advisory Program may incur an increase in complaints. The program will increase fees by an amount necessary to cover any increase in expenditures to investigate complaints.
- Pursuant to Tenn. Code Ann. § 4-29-121, this program is required to be self-supporting over a two-year period. The program had a negative balance of \$138,138 in FY06-07 and a positive balance of \$28,932 in FY07-08. As of June 30, 2008, the program had a negative cumulative balance of \$1,607,942.24.
- The Department of Health has been pursuing rules for four years that would require the disinterment permit to be done at the state level at a charge of \$50 per permit. The provisions of the bill would result in a decrease in revenue if the rules are ever adopted.
- The inclusion of all expenditures from the improvement care trust fund will not result in a significant increase in expenditures to the Department of Commerce and Insurance.

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "James W. White". The signature is fluid and cursive, with the first name "James" written in a smaller, more compact script than the last name "White".

James W. White, Executive Director

/kml